Smith v. The Abandoned Vessel Doc. 10

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

NATHAN SMITH	§	
	§	CIVIL ACTION NO. 4:07-00784
VS.	§	
	§	
THE ABANDONED VESSEL, *in rem*	§	ADMIRALTY

MOTION FOR DECLARATORY JUDGMENT

1. Plaintiff Nathan Smith filed this admiralty action and action for declaratory judgment on March 6, 2007.

2. Plaintiff realleges as if fully set forth herein paragraphs one (1) through twenty-two (22) of his Original Complaint, on file with the Court.

3. Notice of Plaintiff's action was published in the Houston Chronicle once per week for four consecutive weeks starting on May 28, 2007. See Exh. "A." The notice ordered that persons with claims asserting ownership and/or title to the VESSEL or with objections to Plaintiff's right of ownership and/or title to the VESSEL to file them with the clerk of this Court by June 25, 2007.

4. No claims or objections were filed during the aforementioned period.

5. The Court may apply the law of finds and award full ownership of a vessel where either (a) the owners have expressly and publically abandoned their property; and (2) items are recovered from an ancient shipwreck and no one comes forward to claim them. *Adams v. Unione Mediterranea Di Sicurta*, 220 F.3d 659, 672 (5th Cir. 2000); THOMAS J. SCHOENBAUM, ADMIRALTY AND MARITIME LAW § 14-7, at 800 (1994). In this instance, the Court should grant Petitioner's motion because notice of the claim has been given to the general public via publishing and also to the adjacent landowners via direct communication and via publishing. *See* Exhs. "A," "B," "C," and

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"D." No party has stepped forward to claim a right to the vessel and/or its appurtenances.

6. Complainant now moves for this Court to enter judgment for Petitioner Nathan Smith thereby vesting title to the VESSEL, including her armament, apparel, tackle, and cargo to him.

Respectfully submitted,

KILLEEN & STERN, P.C.

By: *_/s/ Robert J. Killeen, Jr_*

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ATTORNEY FOR PLAINTIFF
NATHAN SMITH

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this pleading has not been forwarded to any other party as no other parties have made a claim in this action.

/s/ Robert J. Killeen,Jr.
Robert J. Killeen, Jr.